

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA**

|  |   |                                  |
|--|---|----------------------------------|
| SIDNEY E. SMITH III, et al., executors | ) |                                  |
| of the Estate of Sidney E. Smith, Jr., | ) |                                  |
|  | ) |                                  |
| Plaintiff,                             | ) | No. 1:02-cv-264 Erie             |
|  | ) |                                  |
| v.                                     | ) | Judge Sean J. McLaughlin         |
|  | ) | Mag. Judge Susan Paradise Baxter |
| UNITED STATES,                         | ) |                                  |
|  | ) |                                  |
| Defendant.                             | ) |                                  |

**UNITED STATES' PROPOSED VOIR DIRE**

Defendant United States requests that the Court ask prospective jurors the following voir dire questions:

1. Are you, or is any member of your family acquainted with the plaintiffs, Sidney E. Smith, III (a.k.a. Sandy Smith), Jill Smith, or with any member of their family? If so, please explain.
2. Are you, or is any member of your family acquainted with the plaintiffs' attorneys, McDonald Illig Jones & Britton LLP, W. Patrick Delaney, James D. Cullen, or John Lauer? If so, please explain.
3. Have you or has any member of your family ever been a client of McDonald Illig Jones & Britton LLP or Messrs. Delaney, Cullen, or Lauer?
4. Are you, or is any member of your family acquainted with either of the United States' attorneys, Ivan Dale or Lindsey Cooper? If so, please explain.

5. Do you, or does any member of your family know any of the following people:

- (a) James Spoden of Erie, PA;
- (b) Gregory Pashke, formerly of Erie, PA;
- (c) Kelly Carrier (formerly Strimbu) of Sharon, PA;
- (d) Matthew Minnaugh of Erie, PA;
- (e) Daniel Miller of Erie, PA;
- (f) William Frazier of Dallas, TX; or
- (g) Francis ("Fran") Burns of Chicago, IL

If so, please explain.

6. Have you, or has any member of your family ever been employed by Erie Navigation Company or any of its subsidiaries or affiliates, including Erie Sand & Gravel, Erie Sand & Steamship, Mountfort Terminal Ltd., Serv-All Concrete, Inc., S&J Trucking, and Sidney E. Smith, Inc.? If so:

- (a) Who?
- (b) Which company?
- (c) How long were you (or the member of your family) by the company?
- (d) Describe your (or the member of your family's) current relationship with the company.

7. Have you, or has any member of your family ever had a business relationship with Erie Navigation Company or any of subsidiaries or affiliates, including Erie Sand & Gravel, Erie Sand & Steamship, Mountfort Terminal Ltd., Serv-All Concrete, Inc., S&J Trucking, and Sidney E. Smith, Inc.? If so:

- (a) Who?
- (b) What was the name of the business and the nature of the business dealings with Erie Navigation Company or its subsidiaries or affiliates?

- (c) Who did you (or the member of your family) deal with at Erie Navigation Company or its subsidiaries / affiliates?
- (d) Describe your (or the member of your family's) current relationship with the person(s) at Erie Navigation Company with whom you (or the member of your family) dealt.

8. Have you, or has any member of your family ever been audited by the Internal Revenue Service? If so:

- (a) When did this take place?
- (b) Who was involved?
- (c) Did you personally have any dealings with any Internal Revenue Service personnel, and if so, what was the nature of those dealings?
- (d) Was the audit conducted in a satisfactory manner?
- (e) Were you (or the member of your family) in agreement with the outcome of the audit?
- (f) Were you (or the family member) treated fairly and courteously?

9. Are you, or is any member of your family opposed to the payment of Federal taxes based upon religious, or philosophical beliefs, or upon legal theories?

10. Are you, or is any member of your family opposed to a tax, whether by the federal government, the Commonwealth of Pennsylvania or otherwise, on certain gifts and on decedent's estates?

11. Will the fact that this case involves the collection and payment of Federal gift and estate taxes have any effect on your ability to be a fair and impartial juror?

12. Have you, or has any member of your family ever been a party to litigation? If so:

- (a) What was the nature of the litigation?
- (b) Did the litigation involve the government? If so, what government agency was involved?
- (c) Describe your impressions of the litigation process.
- (d) Would your experience in that litigation in any manner affect your factfinding in this lawsuit?

13. Have you, or has any member of your family ever engaged in work which includes the preparation of tax returns? Describe the nature of that work.

14. Have you, or has any member of your family ever been involved in the administration of a decedent's estate? Describe the nature of that involvement.

15. Have you, or has any member of your family ever given or received a gift which was subject to a gift tax imposed by the United States, the Commonwealth of Pennsylvania, or any other governmental entity? If so, describe the nature of the gift and the circumstances surrounding the taxation of that gift.

16. Has any one of you or any member of your family ever been in a position to manage or participate in the financial affairs of a corporation or a business? If so:

- (a) What was the position held by you or that family member?
- (b) What was the nature of the corporation or business?

17. Have you, or has any member of your family ever been an owner of a small business? If so, please describe the type of business and the type of ownership interest.

18. Have you, or has any member of your family been, or worked for, an accountant, financial analyst or valuation analyst. If so, please describe the type of work you or your family member performed and the type of work performed by the accountant, financial analyst or valuation analyst.

19. Have you ever served on a jury before? If so:

- (a) Was the case civil or criminal in nature?
- (b) Do you understand the difference?
- (c) Did the jury reach a verdict?

20. Do you know of any reason why, after you have heard the evidence in this case and received the instructions of the Court, you could not render a fair and

impartial verdict, either to the plaintiffs or to the United States? In other words, do you believe in your own mind that if you are selected as a juror, your verdict in this case will be fair and impartial and based entirely and only upon the evidence and instructions of the Court?

21. Is there any other circumstance which you feel the Court should know before deciding whether you should be a juror in this case? If so, what is it?

Dated: August 19, 2005.

Respectfully submitted.

MARY BETH BUCHANAN  
United States Attorney

/s/ Lindsey W. Cooper, Jr.  
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